# BEFORE THE REAL ESTATE COMMISSION STATE OF NEVADA

SHARATH CHANDRA, Administrator, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS & INDUSTRY,

STATE OF NEVADA,

Petitioner.

VS.

CANDACE EASDALE,

Respondent.

Case No. 2020-633



NOV 1 0 2022

REAL ESTATE COMMISSION
BY Keley Valader

#### COMPLAINT AND NOTICE OF HEARING

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division"), by and through its counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Phil W. Su, Senior Deputy Attorney General, hereby notifies RESPONDENT CANDACE EASDALE of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission"). The hearing will be held pursuant to Chapters 233B and Chapter 645 of the Nevada Revised Statutes ("NRS") and Chapter 645 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if the RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.633 and/or NRS 645.630 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

#### **JURISDICTION**

RESPONDENT was at all relevant times mentioned in this Complaint licensed as a Broker under two license numbers: #B.0006578.LLC, as broker of record for LSI Property Management, DBA Luxury Realty LLC; and #B.1002016.INDV, which she holds individually as broker of record for Luxury Suites International. Respondent was also at all relevant times mentioned in this Complaint the holder of a Property Manager permit under #PM.0163202.BKR. RESPONDENT is therefore subject to the jurisdiction of the Division and the Commission, pursuant to the provisions of NRS chapter 645 and NAC chapter 645.

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### **FACTUAL ALLEGATIONS**

- 1. On or about March 15, 2018, RESPONDENT Candace Easdale, on behalf LSI Property Management ("LSI"), entered into an asset purchase agreement with Top Notch Realty. [NRED0062-0076].
- 2. At the time, Top Notch Realty held a portfolio of properties under its management, for which it had obtained executed Property Management Agreements. The portfolio included the following three properties (collectively "the Kellner Properties"):
  - a. 5952 Tamarack Lodge Lane ("Tamarack"), owned by Shelly Kellner [NRED0127-0142];
  - b. 5515 Erin Lee Ct. ("Erin Lee"), owned by Michael Kellner [NRED0140-0152]; and
  - c. 5233 Pendergrass St., North Las Vegas ("Pendergrass"), owned by Michael Kellner. [NRED0153-0162].
- 3. The asset purchase was to include all property management agreements in the Top Notch Realty management portfolio, including the agreements for the Kellner properties (collectively, the "PMAs"). [NRED0063-0076].
- 4. The PMAs for the Kellner Properties were effective January 1, 2018 to January 1, 2019, and would automatically renew for successive one year periods unless cancelled by written notice. [NRED0128; 0141; 0154].
- 5. The PMAs provided, under Section 21.D- Waiver Modification and Amendment, that any assignment of the agreements to another party requires "the prior written approval of either party, which approval may be withheld in the sole and absolute discretion of non-assigning party." [NRED0136; 0149; 0160].
- 6. Although Top Notch and LSI/RESPONDENT informed the owners of the Top Notch-managed properties, including the Kellner Properties, that the two companies would be merging and the new entity would continue to perform the property management services that Top Notch had previously provided, [NRED0077-0086], neither Top Notch Realty nor LSI/RESPONDENT obtained the prior written approval from the owners of the managed properties to complete the assignment of the PMAs

from Top Notch to LSI, as required under Section 21.D- Waiver Modification and Amendment, in the PMAs.

- 7. LSI/RESPONDENT began performing property management services for the Top Notch portfolio of managed properties on or about March 15, 2018. [NRED0009; 0034].
- 8. The transaction file notes that at some point in time while managed by Top Notch Realty, the tenant at the Pendergrass property began paying rent directly to the owner, Michael Kellner, and Top Notch charged management fees for the Pendergrass property from the Erin Lee property account. [NRED0080].
- 9. When LSI/RESPONDENT began servicing the Pendergrass property, it continued Top Notch's practice with respect to allowing payment of the Pendergrass rent to be made directly to the owner, and withdrawal of Pendergrass-related fees from the accounts of the other two Kellner-owned properties. [NRED0057-0058].
- 10. The Pendergrass tenant ceased paying rent on or about April 2019, months prior to the October 2019 end of the Pendergrass lease, and abandoned the property sometime thereafter. [NRED0098; 0201].
- 11. Although LSI/RESPONDENT continued to charge management fees on the Pendergrass property, it did not conduct any review of the Pendergrass property with Kellner when the lease terminated without renewal in October 2019. [NRED0098].
- 12. During 2019, RESPONDENT transferred approximately \$5,561.00 from the Erin Lee property account to the Pendergrass ledger to pay for expenses related to the Pendergrass property. [NRED0252; 0311-0313].
- During 2019, RESPONDENT transferred approximately \$3,814.78 from the Tamarack property account to pay for expenses related to the Pendergrass property. [NRED0252; 0341-0342].
- 14. From January to April 2019, LSI charged duplicate management fees on the Pendergrass property, which it subsequently refunded. [NRED0016; 0311].
- 15. On May 10, 2019, LSI double-billed \$645.00 for the installation of a new stove and dishwasher at the Pendergrass property, which was already accounted for in a prior \$3,415.00 payment. [NRED0016; 0274].

- 16. From April 2018 through late 2019, RESPONDENT and her staff referred handyman tasks for the Kellner Properties at least twenty (20) times to an entity that RESPONDENT personally owned, Luxury Works Handyman, without informing the owners of the Kellner properties of RESPONDENT'S ownership stake in that vendor. [NRED0062; 0083; 0252; 0303-0310; 0340-0344].
- 17. On January 28, 2020, Michael Kellner notified RESPONDENT/LSI by email that he wanted to terminate management services of the Kellner properties with LSI. [NRED0097-0098].
- 18. The PMAs provided for an early termination fee in an "amount equal to the management fees that would accrue over the remainder of the stated term of any existing lease agreement or this agreement, whichever is greater." [NRED0135, 0148, 0159].
- 19. Based on the early termination fee clause in the PMAs, LSI/RESPONDENT withheld \$2,651.80 in early termination fees from the Kellner property accounts when returning the balances of owner funds in its possession. [NRED0060].
- 20. On February 13, 2020, the Division received a complaint from COMPLAINANT Michelle Hulin stating that RESPONDENT and her employee, Geoffrey Martin, failed to return held owner funds for the three Kellner Properties, which had subsequently come under the Complainant's management. [NRED0008-0013].
- 21. On February 19, 2020, the Division informed RESPONDENT and Mr. Martin of the complaint and requested responses from both individuals. [NRED0038-0039].
- 22. On March 4, 2020, Geoffrey Martin and RESPONDENT each submitted responses to the Division, including the complete Broker's transaction file. [NRED0044-0050; NRED0054-0062].
- 23. On June 30, 2020, the COMPLAINANT submitted a supplemental statement of facts containing additional information COMPLAINANT obtained after submitting her complaint in February 2020. [NRED0250-0372].

#### VIOLATIONS OF LAW

RESPONDENT has committed the following violations of law:

24. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(7), by acting with gross negligence or incompetence in failing to obtain a written property management agreement signed by the property owner of record for 5952 Tamarack Lodge Lane and RESPONDENT/LSI;

- 25. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(7), by acting with gross negligence or incompetence in failing to obtain a written property management agreement with the property owner of record for 5515 Erin Lee Ct. and RESPONDENT/LSI;
- 26. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(7), by acting with gross negligence or incompetence in failing to obtain a written property management agreement signed by the property owner of record for 5233 Pendergrass St. and RESPONDENT/LSI;
- 27. RESPONDENT violated NRS 645.633(1)(h), pursuant to NAC 645.605(1), by commingling funds between the accounts for the Pendergrass, Erin Lee, and Tamarack properties;
- 28. RESPONDENT violated 645.630(1)(f), pursuant to NAC 645.605(1), by failing, within a reasonable time, to account for double charges that were charged to the Pendergrass property; and
- 29. RESPONDENT violated NRS 645.633(1)(h) pursuant to NAC 645.605(4)(c) three separate times (once for each of the three Kellner properties) by failing to disclose, in writing, her "interest in or financial arrangement with any person or company that provides maintenance or other services to the property."

#### **DISCIPLINE AUTHORIZED**

- 30. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an administrative fine of up to \$10,000 per violation against RESPONDENT and further to suspend, revoke or place conditions on the license of RESPONDENT.
- 31. Pursuant to NRS 645.647(2), the Commission is authorized to suspend or revoke RESPONDENT'S license for failure to pay the administrative fine imposed.
- 32. Additionally, under NRS 622.400, the Commission is authorized to impose costs of the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission otherwise imposes discipline on RESPONDENT.
- 33. Therefore, the Division requests that the Commission take such disciplinary action as it deems appropriate under the circumstances.

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#### **NOTICE OF HEARING**

PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider the Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

THE HEARING WILL TAKE PLACE on December 13, 2022, commencing at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing at 9:00 a.m. through December 15, 2022, or earlier if the business of the Commission is concluded. The Commission meeting will be held on December 13, 2022, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor – Nevada Room, Las Vegas, Nevada 89102. The meeting will continue on each day thereafter commencing at 9:00 a.m. through December 15, 2022, at the Nevada State Business Center, 3300 West Sahara Avenue, 4th Floor - Nevada Room, Las Vegas, Nevada 89102, until the business of the Commission is concluded.

STACKED CALENDAR: Your hearing is one of several hearings scheduled at the same time as part of a regular meeting of the Commission that is expected to last from December 13, 2022, through December 15, 2022, or earlier if the business of the Commission is concluded. Thus, your hearing may be continued until later in the day or from day to day. It is your responsibility to be present when your case is called. If you are not present when your hearing is called, a default may be entered against you and the Commission may decide the case as if all allegations in the complaint were true. If you have any questions please call Kelly Valadez Commission Coordinator (702) 486-4606.

YOUR RIGHTS AT THE HEARING: except as mentioned below, the hearing is an open meeting under Nevada's open meeting law, and may be attended by the public. After the evidence and arguments, the commission may conduct a closed meeting to discuss your alleged misconduct or professional competence. A verbatim record will be made by a certified court reporter. You are entitled to a copy of the transcript of the open and closed portions of the meeting, although you must pay for the transcription.

As the Respondent, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through your counsel of choice. At the hearing, the Division has the burden of proving the allegations in the complaint and will call witnesses and present evidence against

you. You have the right to respond and to present relevant evidence and argument on all issues involved.

You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant to the issues involved.

You have the right to request that the Commission issue subpoenas to compel witnesses to testify and/or evidence to be offered on your behalf. In making the request, you may be required to demonstrate the relevance of the witness' testimony and/or evidence. Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter 233B, and NAC 645.810 through 645.875.

The purpose of the hearing is to determine if the Respondent has violated NRS 645 and/or NAC 645 and if the allegations contained herein are substantially proven by the evidence presented and to further determine what administrative penalty is to be assessed against the RESPONDENT, if any, pursuant to NRS 645.235, 645.633 and or 645.630.

DATED this day of NOVENBEC 2022.

State of Nevada
Department of Business and Industry
Real Estate Division

SHARATH CHANDRA, Administrator 3300 West Sahara Avenue, Suite 350 Las Vegas, Nevada 89102

AARON D. FORD Attorney General

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